

REMARKS

Introduction – Claim Status

This amendment is submitted in response to the final Office Action dated February 12, 2004, and is accompanied by a Petition for Extension of Time and a Request for Continued Examination (RCE) Under 37 CFR § 1.114.

The Office Action indicates that claims 41-130 are pending, with claims 46-58, 60, 61, 62, and 74-77 being withdrawn from consideration. In the present amendment, claims 41, 59, 62, 64-71, 85, 93, 94, 103, 107, 108, 114, 115, 119-128 are amended for additional clarity, and new claims 131-138 are presented for entry and consideration on the merits. No new matter has been added.

Applicants respectfully request reconsideration in view of the herewith presented amendments and remarks.

The 35 USC §112, ¶2 Rejections

The Office Action rejects claims 62-73, 85, 86, 93, 94, and 99-101 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action states that it is “not understood as to whether claims 100, 101, 127 and 128 are independent claim or dependent claim,” further stating that “[i]f it is a dependent claim then the preamble is misdescriptive” and “[i]f it is an independent claim [then] the structural elements are missing.” Applicants respectfully submit that these claims are of proper form insofar as they satisfy 35 USC § 112, ¶ 2, and thus these claims need not be amended with respect to the preamble or explicitly recited elements.

See, In re Faust, 86 USPQ 114, 115 (1943) (The acid test to which a claim should be subjected to determine the acceptability of its form is one of particularity and distinctness with which it points out the field forbidden to the public.”).

The Office Action further indicates that the recitation of “a high bandwidth point to multipoint signal” renders claims 99 and 116 indefinite. Applicant respectfully disagrees and traverses this rejection on the grounds that to one skilled in the art this claim recitation is clear and definite based on the plain language meaning of the claim itself, as well as in view of the specification. That is, based on the claim language itself, and further in view of the specification, Applicants respectfully submit that to one skilled in the art a “point to multipoint” signal clearly means a signal transmission from one “point” (e.g., node, device, or party) to multiple points (e.g., two or more nodes, devices, or parties) that all receive that same signal transmission. Further, in light of the specification, those skilled in the art understand that such a point-to-multipoint signal being of a “high bandwidth” means that it has sufficient bandwidth (i.e., information carrying capacity) such that it is capable of carrying video information. See, e.g., specification at portions corresponding to col. 2, l. 64-col. 3, l. 12; and col. 5, ll. 24-27, 60-64 of US Patent No. 5,833,468, which issued from the parent application of the present continuation application. For example, those skilled in the art would understand that a television signal broadcast via the airwaves or via a cable network is one type of high bandwidth point-to-multipoint signal.

The Office Action also asserts that various identified claims are indefinite because they include recitations that lack clear antecedent basis or they include alternative language that is subject to more than one interpretation. Although Applicants respectfully submit that these claims satisfy 35 USC § 112, ¶ 2, because to

one skilled in the art the limitations have a clear meaning that renders the claim scope reasonably ascertainable (e.g., “and/or” is plainly understood as including disjunctive and conjunctive cases), Applicants have nevertheless amended the claims for additional clarity to obviate and render moot these rejections.

In view of the foregoing, Applicants respectfully request withdrawal of the rejections under 35 USC §112, ¶2.

The 35 USC §102(a) Rejection

The Office Action indicates that claims 41-45, 62-73, and 78-130, as best understood by the Examiner, are rejected under 35 U.S.C. §102(a) as being anticipated by Harper et al. (U.S. Pat. No. 5,585,858; hereinafter “Harper ‘858”).

More specifically, the Office Action states, in part, that the “broadly claimed structure can be interpreted as the simulcast of interactive signals with a video signal of Harper [‘858],” and that Harper ‘858 discloses “receiving at the host data from at least one of the plurality of client devices” and “providing at the host at least a portion of the received data into a signal provided for transmission to the plurality of client devices as a broadcast signal, combining the received data defining actions as at least a part of the signal (see from column 23 line 66 to column 24, line 24).” For at least the reasons presented below, Applicants respectfully traverse this rejection.

Applicants’ invention requires, *inter alia*, an apparatus or method operative in integrating data received from at least one of a plurality of clients into a signal that is provided for broadcast transmission such that the signal is capable of being received by the plurality of clients. More specifically, claim 41 requires, *inter alia*, “at least one host server that integrates data received from at least one of a plurality of client computers

with a first signal to provide a signal for broadcasting such that the signal is capable of being received by a plurality of client facilities.” Additionally, claim 59 is directed to “a computer-readable medium containing instructions . . . operative in implementing a method comprising . . . combining the received data defining actions [of at least one of a plurality of client facilities] as at least a part of the signal that is transmitted by the broadcasting facility” such that the signal is capable of being received by the plurality of client facilities. See, *also*, Claim 78 (“providing at the host at least a portion of the received data into a signal provided for transmission to the plurality of client devices as a broadcast signal”); claim 102 (“at least one processor that . . . is operative in providing at least a portion of the received data [from at least one of said plurality of client devices] into a signal provided for transmission to the plurality of client devices as a broadcast signal.”); claim 129 (“wherein the host facility . . . includes at least a portion of the received data . . . in the combined signal that is provided for transmission as the broadcast signal”); and claim 130 (“selectively integrating at least a portion of the received data [from at least one of a plurality of client facilities] into the signal . . . for transmission to the plurality of client facilities”).

Similarly, Applicants claimed invention is directed to clients (or client implemented methods) that provide data to a host such that the data may be integrated into a signal provided for broadcast transmission such that the signal is capable of being received by the clients. Particularly, claim 62 requires, *inter alia*, “clients that . . . intermittently transmit data to the host, the transmitted data being provided to the host such that the clients are capable of specifying at least a portion of the transmitted data as being intended for incorporation into the broadcast signal.” Also, claim 119 is directed to a processor-implemented method for facilitating remote

communication of a device with a host system, the method comprising “transferring to the host system . . . information representative of information input by the user via the user interface, the transferred information being provided to the host system such that at least a portion of the transferred information is capable of being specified for incorporation into the broadcast signal transmitted by the host system.”

Thus, Applicants’ claimed invention requires, *inter alia*, an apparatus or method operative in providing for client/user originated data to be integrated into a signal that is provided for a broadcast transmission such that the signal is capable of being received by a plurality of clients/users. Harper ‘858, however, does not teach or suggest, *inter alia*, such client/user originated data being integrated into a signal that is provided for broadcast (e.g., point-to-multipoint) transmission. Said differently, Harper ‘858 fails to teach or suggest a signal provided for broadcast transmission to the client devices and that contains data received from at least one of the client devices.

More specifically, Harper ‘858 relates to a system for simulcasting an interactive program with a normal conventional program in the same standard video signal bandwidth. Harper ‘858 refers to the simulcast program as a “composite interactive program.” The system allows for active participation with the program by subscribers who have interactive components connected to a television or computer, as well as normal (i.e., non-interactive) viewing of the program by viewers who choose not to interact or who do not have interactive components.

An operations center 608 generates and broadcasts the composite interactive program to subscribers at remote sites (e.g., homes). Each remote site has an interactive program box (IPB) 600 for processing the composite signal and providing for the interactivity with a subscriber who uses a remote device 604 for transmitting

subscriber selections to the IPB, which outputs the interactive program signal for display on a standard television set 186. Alternatively, the functionality of the IPB may be incorporated into a multimedia computer, the keyboard of which being used for inputting user selections. See, col. 10, ll. 16-27. Harper '858 also mentions that in an alternative embodiment the IPB may be implemented at a cable head-end and programmed to service several subscriber homes by effectively using a time sharing box among many users. See, e.g., Harper '858, col. 10, ll. 1-47. The Harper '858 system also may include a return path from the remote sites (more specifically, the IPBs) to the operations center for sending status messages and participant information. Harper '858, col. 23, ll. 8-35.

During the program, the IPB presents interactive elements (e.g., alternative audio responses and/or graphics displays) to the subscriber either immediately after and as a function of a subscriber's current remote entry (a subscriber's answer selection to an interrogatory message displayed on the screen), or at a time in the program delayed from the subscriber remote entries (which are stored in the IPB) of which the interactive elements are a function.

The interactive elements (audio and/or graphics) may be broadcast by the operations center to the IPBs as part of the transmitted video signal bandwidth, and the interactive elements can be transmitted before or during the program. The interactive elements could also be stored in memory/storage local to the IPB.

In stark contrast to Applicants' claimed invention, in Harper '858, none of the signals transmitted from the operations center to the IPB, nor any signal presented by the IPB to the subscriber, contains any data (e.g., address data and/or text data, etc.)

that (i) the operations center received from the IPB and/or subscriber (via the subscriber's remote or keyboard), or (ii) the IPB received from the subscriber. (Note, as Harper '858 explains that the IPB may also be implemented in a multimedia computer, our discussion herein as to IPBs also applies to multimedia computers). Subscriber inputs (nor portions thereof) received and used by the IPB for selecting an interactive element to present to the subscriber are not included in any transmission by the IPB or operations center. Additionally, although Harper '858 describes using return paths to the operations center for sending status messages and participant information, there is simply no transmission of such uploaded data to the IPBs and/or subscribers.

Accordingly, Applicants respectfully submit that Harper '858 neither teaches nor suggests providing for client/user originated data to be integrated into a signal that is provided for a broadcast or point-to-multipoint transmission such that the signal is capable of being received by a plurality of clients/users (regarding "point-to-multipoint," see hereinabove remarks concerning § 112 rejection). And this patentable distinction exists regardless of whether (i) the operations center (608) and/or the IPB (608) is considered as being a "host", (ii) the IPB (608) is located at the premises or at the cable headend, and/or (iii) the IPB (608) services one or more subscribers.

For at least these reasons, Applicants respectfully submit that Harper '858 does not anticipate Applicants' claimed invention, and thus the §102(a) rejection should be withdrawn. Applicants further submit that the dependent claims recite limitations that provide additional and independent bases for patentable distinction over the cited prior art, and Applicants respectfully reserve the right to present these grounds at a later date. By way of example, various dependent claims (e.g., claims 81, 104, 124, 135,

136) additionally require that the client/user originated data is capable of being selectively addressed to one or more of the plurality of client devices, and Applicants submit that such addressing is neither taught nor suggested by the prior art of record.

Conclusion

In view of the above amendments and remarks, Applicants respectfully submit that the application is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections is respectfully requested and allowance of all pending claims is respectfully submitted.

If any outstanding issues remain, or if the Examiner has any suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number below.

The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,

MORGAN & FINNEGAN



David V. Rossi

Registration No. 36,659

Date: July 12, 2004

By:

MAILING ADDRESS:

MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154
(212) 758-4800 (Voice)
(212) 751-6849 (Facsimile)